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September 7, 2004

VIA MESSENGER

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

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SEP - 7 2004

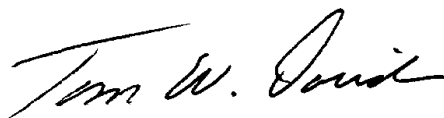
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: KSEE License, Inc.  
MB Docket No. 04-236; RM-11001  
In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital  
Television Broadcast Stations (Fresno, California)

Dear Sir or Madam:

On behalf of KSEE License, Inc., enclosed for filing are an original and four copies of reply comments in support of the allotment proposal set forth in the above-captioned proceeding. Please direct any inquiries concerning this matter to the undersigned.

Sincerely,



Tom W. Davidson

Enclosures

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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Amendment of Section 73.622(b), Table of  
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Stations (Fresno, California)

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MB Docket No. 04-236

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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RM-11001

**REPLY COMMENTS OF KSEE LICENSE, INC.**

KSEE License, Inc. ("KSEE License"), by its attorneys and pursuant to Section 73.623 of the rules of the Federal Communications Commission ("Commission"), 47 C.F.R. § 73.623, hereby submits its reply comments ("Reply Comments") expressing further support of the proposal to amend the digital television ("DTV") table of allotments, 47 C.F.R. 73.622(b), to substitute DTV channel 38 for DTV channel 16 at Fresno, California ("Channel Substitution"). On July 2, 2004, the Video Division of the Commission's Media Bureau released a notice of proposed rulemaking proposing the Channel Substitution ("NPRM").<sup>1</sup> On August 23, 2004, KSEE License and two other parties—Champion Communication Services, Inc. ("Champion") and County of Los Angeles, California ("LA County")—filed comments in this proceeding.<sup>2</sup> All commenters enthusiastically supported the Channel Substitution. Accordingly, KSEE License urges the Commission to adopt the Channel Substitution.

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<sup>1</sup> See *In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fresno, California)*, Notice of Proposed Rulemaking, MB Docket No. 04-236, RM-11001 (rel. July 2, 2003) ("NPRM").

<sup>2</sup> Comments of KSEE License, Inc. ("KSEE Comments"), at 1; Comments of Champion Communication Services, Inc. ("Champion Comments"), at 1; Comments of the County of Los Angeles, California ("LA County Comments"), at 1.

## **I. BACKGROUND**

KSEE License is the licensee of commercial DTV station KSEE-DT, DTV channel 16, Fresno, California. Months after KSEE License commenced its DTV operations, several land mobile licensees in the San Francisco and Los Angeles markets, including Champion and LA County, reported that their land mobile operations on channel 16 were receiving interference, which they believed was caused by KSEE License's DTV operations.<sup>3</sup> Based on exhaustive testing and analysis, KSEE License determined that its DTV operations were fully consistent with its license and with all of the Commission's rules and policies.<sup>4</sup> KSEE License also concluded that it could not remedy the alleged interference through modification of its existing DTV facilities on channel 16.<sup>5</sup> Thus, in an effort to remedy the interference alleged by the land mobile operators, KSEE License proposed the Channel Substitution.<sup>6</sup>

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<sup>3</sup> See *In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fresno, California)*, Petition for Rulemaking, MB Docket No. 04-236, RM-11001 (May 3, 2004) ("Petition"), at 2-3 (detailing interference complaints). KSEE License incorporates its Petition for Rulemaking by reference herein.

<sup>4</sup> See Petition at 2-3.

<sup>5</sup> See Petition at 4-5; Engineering Statement in Support of Petition for Rulemaking to Change Frequency From DTV Channel 16 to DTV Channel 38, prepared by Dane E. Ericksen, at 4-5 ("Engineering Statement"). KSEE License incorporates its Engineering Statement by reference herein.

<sup>6</sup> KSEE License was under no legal obligation to change its DTV channel or otherwise modify its facilities because its licensed operations complied fully with all FCC rules and policies. Nevertheless, KSEE License is willing to implement the Channel Substitution because it appears to be the only way, other than relocating public safety facilities, to resolve the alleged interference.

## **II. ALL COMMENTERS SUPPORT THE CHANNEL SUBSTITUTION**

KSEE License, Champion and LA County filed comments in the instant proceeding. All three parties expressed wholehearted support for the Channel Substitution. Specifically, LA County “strongly supports [the Channel Substitution] and urges the Commission to expedite its consideration of the matter”<sup>7</sup> and Champion “urges the Commission to proceed expeditiously to substitute DTV channel 38 for DTV channel 16 in Fresno, CA.”<sup>8</sup>

All commenters also agreed that the Channel Substitution would eliminate interference to private and public safety land mobile operations on channel 16. According to LA County, “the Commission should act *immediately* to amend its rules to eliminate a dangerous source of interference to public safety.”<sup>9</sup> Champion concurred, stating that the Channel Substitution “is required to eliminate ongoing destructive interference.”<sup>10</sup> Finally, commenters were in agreement that the Channel Substitution is the only way to remedy such interference.<sup>11</sup>

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<sup>7</sup> LA County Comments, at 1.

<sup>8</sup> Champion Comments, at 1; *see also* KSEE Comments at 3. Champion and LA County also suggested that the Commission require KSEE License to cease its operations from Channel 16. Champion Comments, at 1, 2; LA County Comments, at 2. As these parties and the Commission are well aware, the need for KSEE License to cease operations already is the subject of two ongoing proceedings. In any event, the suggestion is preposterous because KSEE License is operating in full compliance with all FCC rules and with the terms of its license. Moreover, such matters are outside the scope of the instant proceeding, which addresses only whether the Channel Substitution is in the public interest. Because KSEE License’s operations from Channel 16 are irrelevant to this rulemaking proceeding, and because commenters’ arguments are not legally sustainable, KSEE License will not respond further to Champion and LA County’s requests. However, to the extent the Commission deems them relevant, KSEE License hereby incorporates its previous interference-related pleadings by reference herein. *See* Opposition to Request for Issuance of Cease and Desist Order (filed Feb. 19, 2004); Opposition to Interference Complaint and Petition (filed Mar. 18, 2004).

<sup>9</sup> LA County Comments, at 2 (emphasis in original).

<sup>10</sup> Champion Comments, at 1; KSEE Comments at 3.

<sup>11</sup> Champion Comments, at 2; KSEE Comments at 3.

### III. STATEMENT OF INTEREST

If the Channel Substitution is adopted, KSEE License again confirms that it will apply for a DTV construction permit for channel 38, with the following specifications:

State & City	DTV Channel	Coordinates	DTV Power (kW)	Antenna HAAT (m)
Fresno, CA	38	37-04-19 N; 119-25-48 W	326	601

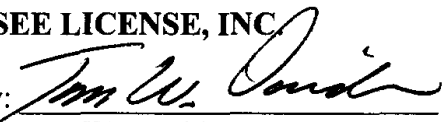
If so authorized by the Commission, KSEE License will promptly construct such DTV facilities on channel 38.

### IV. CONCLUSION

For all of the foregoing reasons, KSEE License urges the Commission to adopt the Channel Substitution expeditiously.

Respectfully submitted,

**KSEE LICENSE, INC.**

By: 

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Dated: September 7, 2004

Its Attorney

## CERTIFICATE OF SERVICE

I, Judie Johnson, hereby certify that true and correct copies of the foregoing "Reply Comments of KSEE License, Inc." have been forwarded by U.S. Mail, postage prepaid, except as otherwise noted, on the 7<sup>th</sup> day of September, 2004 to the following parties:

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\* Denotes hand delivery

  
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Judie Johnson